

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CRISTINA BALAN,

Plaintiff,

v.

TESLA MOTORS INC.,

Defendant.

Case No. 2:19-cv-00067-MJP

**DEFENDANT TESLA, INC.'S  
ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
COMPLAINT**

**JURY DEMAND**

Defendant Tesla, Inc., formerly Tesla Motors, Inc. ("Defendant"), answers the Complaint ("Complaint") filed herein by Plaintiff Cristina Balan ("Plaintiff") as follows:

**ANSWER TO COMPLAINT**

**I. INTRODUCTION**

1. Defendant admits that Tesla is a corporation based in Palo Alto, California, that manufactures electric vehicles and clean energy products. Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 1.

2. Defendant denies that Tesla defamed Plaintiff. Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 2.

3. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 3.

DEFENDANT'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S COMPLAINT - 1

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1           4. Defendant denies publishing false or defamatory statements regarding Plaintiff.  
2 Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining  
3 allegations in paragraph 4.

4           5. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
5 the allegations in paragraph 5.

6           6. Defendant admits it has defended itself in an arbitration initiated by Plaintiff  
7 regarding Plaintiff's employment with Defendant, and that Plaintiff's employment with Defendant  
8 ended in or around 2014. Defendant denies publishing false or defamatory statements regarding  
9 Plaintiff. Defendant lacks information sufficient to form a belief as to the truth or falsity of the  
10 remaining allegations in paragraph 6.

11           7. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
12 the allegations in paragraph 7.

13           8. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
14 the allegations in paragraph 8.

15           9. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
16 the allegations in paragraph 9.

17           10. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
18 the allegations in paragraph 10.

19           11. Defendant denies acting with malice or abusing its public influence, and denies  
20 making any false or defamatory statements regarding Plaintiff. Defendant further denies exhibiting  
21 or maintaining a "willingness to destroy and or conceal evidence," and denies that it at any time  
22 destroyed or concealed evidence. Defendant lacks information sufficient to form a belief as to  
23 the truth or falsity of the remaining allegations in paragraph 11.

## 24                                   **II. THE PARTIES TO THE COMPLAINT**

25           12. Defendant admits that Plaintiff was formerly employed by Tesla. Defendant lacks  
26 information sufficient to form a belief as to the truth or falsity of the remaining allegations in  
27 paragraph 12.

DEFENDANT'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S COMPLAINT - 2

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1 13. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
2 the allegations in paragraph 13.

3 14. Defendant admits it is a corporation based at 3500 Deer Creek Rd., Palo Alto,  
4 California that produces electrical vehicles and solar panel systems. Defendant lacks information  
5 sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 14.

6 15. Defendant admits that Tesla's CEO is Elon Musk. Defendant lacks information  
7 sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 15.

8 **III. JURISDICTION AND VENUE**

9 16. Paragraph 16 sets forth legal conclusions to which no response is required. To the  
10 extent that a response is required, Defendant lacks information sufficient to form a belief as to the  
11 truth or falsity of the allegations in paragraph 16.

12 17. Defendant admits the allegations in paragraph 17.

13 18. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
14 the allegations in paragraph 18.

15 19. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
16 the allegations in paragraph 19.

17 20. Paragraph 20 sets forth legal conclusions to which no response is required. To the  
18 extent that a response is required, Defendant denies making any defamatory statements regarding  
19 Plaintiff, and lacks information sufficient to form a belief as to the truth or falsity of the remaining  
20 allegations in paragraph 20.

21 21. Defendant denies the allegations in paragraph 21.

22 22. Defendant denies the allegations in paragraph 22.

23 23. Paragraph 23 requires no response.

24 24. Paragraph 24 sets forth legal conclusions to which no response is required.

25 25. Paragraph 25 sets forth legal conclusions to which no response is required.

**IV. FACTUAL BACKGROUND**

26. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 26.

27. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 27.

28. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 28.

29. Defendant denies that it made any false or defamatory claims regarding Plaintiff. Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 29.

30. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 30.

31. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 31.

32. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 32.

33. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 33.

34. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 34.

35. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 35.

36. Defendant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 36.

37. Defendant denies the allegations in paragraph 37.

38. Paragraph 38 requires no response.

1           39. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
2 the allegations in paragraph 39.

3           40. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
4 the allegations in paragraph 40.

5           41. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
6 the allegations in paragraph 41.

7           42. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
8 the allegations in paragraph 42.

9           43. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
10 the allegations in paragraph 43.

11           44. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
12 the allegations in paragraph 44.

13           45. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
14 the allegations in paragraph 45.

15           46. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
16 the allegations in paragraph 46.

17           47. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
18 the allegations in paragraph 47.

19           48. Paragraph 48 sets forth legal conclusions to which no response is required. To the  
20 extent that a response is required, Defendant lacks information sufficient to form a belief as to the  
21 truth or falsity of the allegations in paragraph 48.

22           49. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
23 the allegations in paragraph 49.

24           50. Paragraph 50 sets forth legal conclusions to which no response is required. To the  
25 extent that a response is required, Defendant denies that any right of Tesla has “been extinguished  
26 through waiver.”  
27

DEFENDANT’S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF’S COMPLAINT - 5

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1           51. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
2 the allegations in paragraph 51.

3           52. Defendant denies that it “warned [Plaintiff] to destroy the evidence/recordings.”  
4 Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining  
5 allegations in paragraph 52.

6           53. Defendant denies the allegations in paragraph 53.

7           54. Defendant denies the allegations in paragraph 54.

8           55. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
9 the allegations in paragraph 55.

10          56. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
11 the allegations in paragraph 56.

12          57. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
13 the allegations in paragraph 57.

14          58. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
15 the allegations in paragraph 58.

16          59. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
17 the allegations in paragraph 59.

18          60. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
19 the allegations in paragraph 60.

20          61. Defendant denies that it is “malicious.” Defendant lacks information sufficient to  
21 form a belief as to the truth or falsity of the remaining allegations in paragraph 61.

22          62. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
23 the allegations in paragraph 62.

24          63. Defendant denies the allegations in paragraph 63.

25          64. Defendant denies the allegations in paragraph 64.

26          65. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
27 the allegations in paragraph 65.

DEFENDANT’S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF’S COMPLAINT - 6

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1           66. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
2 the allegations in paragraph 66.

3           67. Defendant denies making false accusations, that it engaged in a “campaign of  
4 litigant abuse,” and that it defamed Plaintiff. Defendant lacks information sufficient to form a  
5 belief as to the truth or falsity of the remaining allegations in paragraph 67.

6                                   **V. CAUSE OF ACTION FOR DEFAMATION**

7           68. Paragraph 68 requires no response.

8           69. Paragraph 69 requires no response.

9           70. Defendant denies making false and defamatory accusations regarding Plaintiff.  
10 Defendant lacks information sufficient to form a belief as to the truth or falsity of the remaining  
11 allegations in paragraph 70.

12           71. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
13 the allegations in paragraph 71.

14           72. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
15 the allegations in paragraph 72.

16           73. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
17 the allegations in paragraph 73.

18           74. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
19 the allegations in paragraph 74.

20           75. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
21 the allegations in paragraph 75.

22           76. Defendant denies the allegations in paragraph 76.

23           77. Defendant denies the allegations in paragraph 77.

24           78. Defendant denies the allegations in paragraph 78.

25           79. Defendant denies the allegations in paragraph 79.

26           80. Defendant denies the allegations in paragraph 80.

27  
DEFENDANT’S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF’S COMPLAINT - 7

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1 81. Defendant lacks information sufficient to form a belief as to the truth or falsity of  
2 the allegations in paragraph 81.

3 82. Defendant denies the allegations in paragraph 82.

4 83. Defendant denies the allegations in paragraph 83.

5 84. Defendant denies the allegations in paragraph 84.

6 85. Defendant denies the allegations in paragraph 85.

7 86. Defendant denies the allegations in paragraph 86.

8 87. Defendant denies the allegations in paragraph 87.

9 88. Defendant denies the allegations in paragraph 88.

10 **AFFIRMATIVE DEFENSES**

11 Defendant pleads the following separate defenses. Defendant reserves the right to assert  
12 additional affirmative defenses that discovery indicates are proper.

13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Mandatory Arbitration)**

15 1. As a separate and first affirmative defense to the Complaint, Defendant alleges  
16 that Plaintiff's claims are barred because Plaintiff signed, and is bound, by an arbitration  
17 agreement which provides that Plaintiff must submit her claims against Defendant to final and  
18 binding arbitration.

19 **SECOND AFFIRMATIVE DEFENSE**

20 **(Failure to State a Claim)**

21 2. As a separate and second affirmative defense to the Complaint, Defendant alleges  
22 that the Complaint fails to state facts sufficient to constitute a cause of action.

23 **THIRD AFFIRMATIVE DEFENSE**

24 **(Estoppel)**

25 3. As a separate and third affirmative defense to the Complaint, Defendant alleges  
26 that Plaintiff's claims are barred by the doctrine of estoppel.



**FOURTH AFFIRMATIVE DEFENSE**

**(Laches)**

4. As a separate and fourth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred by the doctrine of laches.

**FIFTH AFFIRMATIVE DEFENSE**

**(Uncertainty)**

5. As a separate and fifth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred because Plaintiff's losses, if any, are speculative and uncertain, or both, and therefore are not compensable.

**SIXTH AFFIRMATIVE DEFENSE**

**(Waiver)**

6. As a separate and sixth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred because Plaintiff has waived the right, by reason of her conduct and actions, to assert each of the causes of action alleged therein.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Truth)**

7. As a separate and seventh affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred any alleged defamatory statement by Defendant, if made at all, was and is true.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Privileged Communication)**

8. As a separate and eighth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred any alleged defamatory statement by Defendant, if made at all, was and is privileged under the law.

**NINTH AFFIRMATIVE DEFENSE**

**(No Malice)**

9. As a separate and ninth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred any alleged defamatory statement by Defendant, if made at all, not stated with malice or intent to injure Plaintiff.

**TENTH AFFIRMATIVE DEFENSE**

**(Opinion)**

10. As a separate and tenth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred any alleged defamatory statement by Defendant, if made at all, was and is merely Defendant's honestly held opinion.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Public Figure)**

11. As a separate and eleventh affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred because Plaintiff waived her right to privacy regarding the issues in question by voluntarily injecting herself into a public controversy and becoming a public figure for the issues relating to the controversy.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Consent)**

12. As a separate and twelfth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred because Plaintiff invited or induced Defendant to make public statements, if made at all, regarding Plaintiff when Plaintiff voluntarily provided public statements regarding Defendant, and thereby consented to Defendant's comments made in response to inquiries regarding Plaintiff's statements.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

13. As a separate and thirteenth affirmative defense to the Complaint, Defendant alleges that Plaintiff's claims are barred pursuant to the doctrine of "unclean hands" because

1 Plaintiff engaged in conduct that proximately caused or contributed to any and all injuries  
2 Plaintiff allegedly suffered.

3 **FOURTEENTH AFFIRMATIVE DEFENSE**

4 **(No Ratification)**

5 14. As a separate and fourteenth affirmative defense to the Complaint, Defendant  
6 alleges that it is not liable for damages because, if any person engaged in intentional, willful or  
7 unlawful conduct as alleged in Plaintiff's Complaint, he or she did so without the knowledge,  
8 authorization or ratification of Defendant.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 **(Violation of Defendant's Rights – Punitive Damages)**

11 15. As a separate and fifteenth affirmative defense to the Complaint, Defendant  
12 alleges that any award of punitive damages in this action would violate Defendant's  
13 constitutional rights, including the right to due process.

14 **SIXTEENTH AFFIRMATIVE DEFENSE**

15 **(No Damages)**

16 16. As a separate and sixteenth affirmative defense to the Complaint, Defendant  
17 alleges that Plaintiff was not damaged in the sum or manner alleged, or in any sum or manner at  
18 all, by any act or omission of Defendant or any of Defendant's agents or employees.

19 **SEVENTEENTH AFFIRMATIVE DEFENSE**

20 **(No Liability of Defendant)**

21 17. As a separate and seventeenth affirmative defense to the Complaint, Defendant  
22 alleges that if any loss, injury, damage or detriment occurred as alleged in the Complaint, the  
23 loss, injury, damage or detriment was not caused by, authorized or in any way ratified by  
24 Defendant, and therefore, Defendant cannot be liable for the loss, injury, damage or detriment  
25 alleged.

**Additional Affirmative Defenses**

18. Defendant alleges that because Plaintiff's causes of action are stated in vague and conclusory terms, Defendant cannot fully anticipate each affirmative defense that may be applicable to this action. Accordingly, Defendant asserts its right to plead additional affirmative defenses, if and to the extent that such affirmative defenses are available.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant prays for judgment as follows:

1. That the Complaint be dismissed, with prejudice and in its entirety;
2. That Plaintiff take nothing by reason of this Complaint and that judgment be entered against Plaintiff and in favor of Defendant;
3. That Defendant be awarded its attorneys' fees and costs incurred in defending this action;
4. That Defendant be granted such other and further relief as the Court may deem just and proper.

DATED: February 14, 2019

LANE POWELL PC

By /s/ Darin M. Sands

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DEFENDANT'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S COMPLAINT - 12

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 14, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice. I hereby certify that the following document was sent to the following CM/ECF participant:

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Mukilteo, WA 98275  
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*Pro Se Plaintiff*

Executed on the 14th day of February, 2019, at Portland, Oregon.

/s/ Darin M. Sands

Signature of Attorney  
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CERTIFICATE OF SERVICE

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